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October 31, 2007

California Energy Commission  
Docket Unit, MS-4  
1516 Ninth Street  
Sacramento, CA 95814-5512

Re: Docket No. 01-AFC-7C

Dear Docket Unit:

Enclosed for filing with the California Energy Commission via electronic e-mail is one (1) original of the **Intervener's Objections and Responses to the Petitions to Intervene by Alameda County, Chabot –Las Positas Community College District and Group Petitioners.**

Also enclosed for filing with the California Energy Commission via electronic e-mail is one (1) original of the **Intervener's Objections and Responses to the Petitions for Reconsideration by Alameda County, Chabot-Las Positas Community College District.**

The attached Proof of Service has been satisfied by e-mail to all parties.

Sincerely,

Paul N. Haavik

**Paul N. Haavik, Intervener  
25087 Eden Avenue  
Hayward, CA 94545  
510-427-9057**

**State of California  
Energy Resources Conservation  
And Development Commission**

|                                   |   |  |
|-----------------------------------|---|--|
| <b>In the matter of</b>           | ) | <b>Docket No. 01-AFC-7C</b>  |
|                                   | ) |  |
|                                   | ) |  |
| <b>Russell City Energy Center</b> | ) |  |
|                                   | ) | <b>Intervener's Objection and Response<br/>to Petitions to Intervene and<br/>Reconsideration</b> |

**Paul N. Haavik, Intervener, in accordance with Title 20 CCR sub-section 1712 and the Committee Order dated July 2, 2007, granting Intervener status and a party to this matter hereby files the attached Response and Objection to the Petitions to Intervene by Alameda County, Chabot-Las Positas Community College District and the Group Petitioners. Also filed is the Response and Objection to the Petitions filed by Alameda County, Chabot-Las Positas Community College District and the Group Petitioners for Reconsideration of the Commission Decision of September 26, 2007.**

**BACKGROUND:**

On June 20, 2007, as an interested resident and business person in Hayward, California, I filed a petition with the California Energy Commission. On several occasions, I had attended City of Hayward meetings or read notices and newspaper articles about the proposed Amendment to the Russell City Energy Center. I became interested in the proceedings and decided to become an Intervener.

I contacted the Public Advisor's Office for information to intervene and deadlines for filing. The Public Advisor's office was very helpful with precise directions and filing information. The California Energy Commission's home web page provided me with all additional necessary information. I also signed up for the web alert service provided by the Commission. The Public Advisor's Office worked closely with the Intervener and provided any and all documents requested. The Public Advisor would regularly contact the Intervener for updates and offer assistance.

On July 2, 2007, I was granted Intervener Status and became a party to the matter in question.

On June 27, 2007, I received a Notice for the Pre-Hearing Conference and Evidentiary Hearing. The author of this document, Mr. Paul Kramer, thoroughly explained the procedures and deadlines to petition the Committee to Intervene. The deadline for Petitions was clearly stated as July 3, 2007. This was the deadline to file a three (3) page document, not a deadline for the Committee to grant status. In addition, the forms to petition were available on the Commission's website and very easy to understand and complete. The process would not take more than two (2) hours, including proof of service.

As an Intervener, I received all documentation and mailings. I participated in all the workshops, pre-hearing conference, evidentiary hearing and final Commission hearings.

As the Petition for Intervention indicated, the petitioner may exercise the rights and shall fulfill the obligations of a party as set forth in Section 1712 of the Commission's regulations (CCR Title 20, Section 1712). I believe the professionalism and conduct of the Intervener has fulfilled these regulations.

## **DISCUSSION:**

There have been several events that do not support the Petitioners request for intervening in this matter and reconsideration of the Final Decision.

The petitioners request additional time, they were not notified appropriately, several areas of the staff assessment were deficient or lacking information and the decision should be set aside.

On June 6, 2007, The Hayward Daily Review newspaper published an article on the proposed power plants in Hayward. There was also an inset to the article, center, first page, indicating a meeting by the Committee to discuss all relevant issues. The Public Advisor's Office also publicized the meeting. Local residents also distributed flyers to approximately 2000 local residents' homes. The meeting was well attended, exceeding 100 attendees. The Public Advisor's Office distributed notices and offered the attendees to participate and sign up for notification of future workshops, notices and filings.

Several of the declarants in the Group Petition attended the joint Committee meeting and participated in the Russell City Energy Center workshops and the evidentiary hearing.

The Intervener attended all meetings and made himself available to discuss any and all matters. After the final decision by the Commission, the Intervener was approached and asked to participate in the Petitions currently before the Commission. The Intervener declined to participate.

Meetings were held and handbills distributed on the Chabot College Campus. In fact, one (1) of the declarants participated in an informal staff and student meeting, speaking about the power plant emissions. The Chabot-Las Positas Community College District's teaching staff must have been aware of the proposed power plant.

Part of the Final Staff assessment reviewed the effects on the Hayward Executive Airport, exhaust plumes, air space and the FAA. On or about August 15, 2007, the Alameda County Airport Land Use Commission conducted a hearing and issued a resolution for the Energy Commission's use. It would seem as though the Alameda County staff was well aware of the proposed Russell City Energy Center.

## **CONCLUSION AND RECOMMENDATION:**

It would only seem appropriate that the Commissioner's consider the conduct, professionalism and participation of the Intervener in this matter. The Intervener filed in a timely manner, was granted Intervener status on July 2, 2007 and followed all rules and regulations of the California Energy Commission and the California Code of Regulations. To grant a petition to intervene for additional prospective parties after a final decision has been made, would reduce the importance and jurisdiction of the INTERVENER and the Commission. It also would have a grave effect on the conduct of future proceedings to come before the Commission and set a detrimental precedent.

In addition, the petitions to reconsider the decision cannot be filed unless a Petition to Intervene is granted. There has been ample opportunity to approach the Intervener and discuss proposed petitions prior to the evidentiary hearing.

To reopen the proceedings would also place a burden of additional time and effort, as well as substantial expense of litigation of this matter brought on by those who failed to follow the example of the Intervener in filing in a timely manner.

It is therefore respectfully submitted that the Commission on November 7, 2007, at the regularly scheduled Business Meeting, deny all petitions for intervention and reconsideration.

Dated: October 31, 2007

Respectfully Submitted,

Paul N. Haavik, Intervener

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION  
OF THE STATE OF CALIFORNIA**

**Amendment to the APPLICATION  
FOR CERTIFICATION OF THE  
RUSSELL ENERGY CENTER  
POWER PLANT PROJECT**

**Docket No. 01-AFC-7C  
PROOF OF SERVICE  
(Revised 7/6/07)**

INSTRUCTIONS: All parties shall 1) send an original signed document plus 12 copies OR 2) mail one original signed copy AND e-mail the document to the web address below, AND 3) all parties shall also send a printed OR electronic copy of the documents that shall include a proof of service declaration to each of the individuals on the proof of service:

**CALIFORNIA ENERGY COMMISSION**

**Attn: Docket No. 01-AFC-7C  
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DECLARATION OF SERVICE

I, Paul N. Haavik, declare that on October 31, 2007, I deposited copies of the attached: Intervener Objections and Response to Petitions to Intervene and Reconsideration in the United States mail at Hayward, California with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

**OR**

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
Original signed by:

Paul N. Haavik